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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

United States of America,

Plaintiff(s),

v.

Defendant(s).

CASE NO.

**CRIMINAL MOTION AND TRIAL
ORDER**

A. MOTIONS

1. Counsel must meet and confer with opposing counsel and attempt to resolve the issue before filing a motion. Pretrial motions shall be filed on or before the Monday four weeks prior to trial. Oppositions (or notice of non-oppositions) shall be filed no later than one week after the filing of the motion. Replies, if any, shall be filed no later than one week after the filing of the opposition. Counsel must follow the Central District’s General Orders and Local Rules concerning electronic filing, unless superseded by this Order.

1 2. Hearings on motions and Status Conferences are held on Mondays, at
2 1:30 p.m., unless otherwise set by the Court.

3 3. All papers shall be served personally or faxed to opposing counsel no
4 later than 4:30 p.m. on the day of filing, with conformed courtesy copies of
5 documents delivered to the Court's drop box outside of Courtroom 1600, Spring
6 Street. Paper chambers copies are mandatory.

7 4. Counsel shall meet and confer with opposing counsel to resolve
8 informally discovery disputes prior to filing a motion for discovery. All discovery
9 motions shall state with particularity what is requested, the basis for the request,
10 whether discovery has been requested and opposing counsel's response to such
11 request. Motions made without prior consultation with opposing counsel may not
12 be heard.

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14 B. DISCOVERY & NOTICE

15 Counsel shall comply promptly with discovery and notice pursuant to Rules
16 12, 12.1, 12.2, 12.3, 12.4, 15 and 16 of the Federal Rules of Criminal Procedure.

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18 C. TRIAL REQUIREMENTS

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20 1. **No later than Wednesday before trial**, counsel for the government
21 shall file with the Court:

22 a. In camera (under seal) all statements of all witnesses to be called by
23 the Government in its case-in-chief;

24 b. A trial memorandum setting forth a factual summary of the
25 government's case, a statement of the charges and the elements of each charge, an
26 estimate of the length of the government's case in chief, including anticipated
27 cross-examination, the names of witnesses the government intends to call, and a
28 discussion of relevant legal and evidentiary issues as applied to the facts of the

1 particular case. Counsel for the government shall attempt to obtain defense
2 counsel's agreement to the factual summary, statement of the charges, time
3 estimate for cross-examination of the government's witnesses, and legal and
4 evidentiary issues.

5 2. Counsel shall arrive at the Courtroom no later than 8:30 a.m. on the
6 first day of trial.

7 3. Counsel for the government shall present the courtroom deputy clerk
8 (CRD) with the following documents on the first day of trial:

9 a. Three copies of the government's witness list, which shall also
10 be sent in Word or WordPerfect format to the Chamber's e-mail box;

11 b. Three copies of the government's exhibit list in the form
12 specified in Local Rule 16-5 (Civil), which shall also be sent in Word or
13 WordPerfect format to the Chamber's e-mail box;

14 c. All of the government's exhibits, with official exhibit tags
15 attached and bearing the same number shown on the exhibit list. Exhibit tags may
16 be obtained from the receptionist in the Public Intake Section, located on the Main
17 Street level of the Courthouse at 312 North Spring Street, Room G-19. Exhibits
18 shall be numbered 1, 2, 3, etc., NOT 1.1, 1.2, etc. If a "blow-up" is an
19 enlargement of an existing exhibit, it shall be designated with the number of the
20 original exhibit followed by an "A";

21 d. A three-ring binder containing a copy of the
22 indictment/information, a copy of all exhibits that can be reproduced, and a copy
23 of the witness list. Each exhibit shall be tabbed with the exhibit number for easy
24 referral;

25 e. A three-ring binder containing a copy of all exhibits for use by
26 witnesses.

27 4. Exhibits such as firearms, narcotics, etc., must remain in the custody
28 of a law enforcement agent during the pendency of the trial. It shall be the

responsibility of the agent to produce any such items for court, secure them at night, and guard them at all times while in the courtroom.

5. The Court prefers that defense counsel deliver defense exhibits to the CRD on the first day of trial, but counsel are not required to do so unless these exhibits have previously been provided to the government. Defense counsel are responsible for affixing completed exhibit tags with the case name and case number to all exhibits to be used in defendant's case.

6. In trials where the defense expects to admit more than 20 exhibits, defense counsel shall provide two three-ring binders (one for the Court and one for witnesses), tabbed if possible with numbers to correspond to the exhibits counsel expects to introduce. Defense counsel shall provide the Court with a copy of defense exhibits as they are introduced during trial, if they have not previously been provided.

7. Defense counsel shall provide the CRD and the court reporter with the defense witness list and defense exhibit list.

8. A copy of the exhibit list with all **admitted exhibits** will be given to the jury during deliberations. Government and defense counsel shall review and approve the exhibit list with the CRD before the list is given to the jury.

9. If any counsel wishes to arrange for the use of additional equipment, such as video monitors, overhead projectors, etc., counsel shall notify the CRD no later than 4:00 p.m. at least one week before trial so that the necessary arrangements may be made.

10. Counsel shall not attempt to display or use any charts or enlargements of exhibits unless all counsel have agreed to their use or objections have been heard and a ruling has been made by the Court.

11. On the day of jury selection, trial will begin at 9:00 a.m. Counsel will appear at 8:30 a.m. Thereafter, trial days are Tuesday through Friday, 9:00 a.m. to 3:00 p.m., with two fifteen-minute breaks and a one hour lunch break.

1 When necessary, trials may continue beyond the normal schedule.

2 12. On the day of jury selection, the Court reserves the time from 8:30
3 a.m. to 9:00 a.m. to handle legal and administrative matters. Jury selection will
4 commence promptly at 9:00 a.m. or as soon as jurors are available. All counsel
5 must anticipate matters that may need to be addressed outside of the presence of
6 the jury and raise them at the end of the day or during breaks. The Court does not
7 make jurors wait while counsel discuss matters that should have been addressed
8 previously. Short briefs addressing disputed issues are welcome. The Court
9 strongly discourages sidebars during trial.

10 13. Any party requesting special court reporter services for any hearing (i.e.
11 real time transmission, daily transcripts) shall notify the reporter as least 2 weeks
12 before the hearing date.

13
14 **D. JURY INSTRUCTIONS, VERDICT FORMS & QUESTIONNAIRES**

15
16 1. **No later than Wednesday before trial**, counsel shall submit both
17 general and substantive jury instructions in the form described below. If possible,
18 all instructions should be taken from the Manual of Model Criminal Jury
19 Instructions for the Ninth Circuit (West Publishing, current edition). Where no
20 applicable Ninth Circuit model instruction is available, counsel should consult the
21 instructions from O'Malley, Grenig & Lee (formerly Devitt, et al.), Federal Jury
22 Practice and Instructions (West Publishing Co., current edition). Counsel may
23 submit alternatives to the Ninth Circuit model jury instructions or O'Malley,
24 Grenig & Lee instructions only if counsel has a reasoned argument that those
25 instructions do not properly state the law or they are incomplete.

26 2. The parties must submit JOINT jury instructions and a JOINT
27 proposed verdict form. In order to produce these joint instructions, the parties
28 shall meet and confer sufficiently in advance of the required submission date with

the goal of agreeing on instructions and verdict forms. Where the parties cannot agree, disputed instructions shall be submitted Wednesday before trial as follows: 1) JOINT jury instructions (those instructions agreed to by all parties), and 2) DISPUTED jury instructions (those instructions propounded by a party to which another party objects). On a separate page following each disputed jury instruction, the party opposing the instruction shall briefly state the basis for the objection, any authority in support thereof and, if applicable, an alternative instruction. On the following page, the party proposing the disputed instruction shall briefly state its response to the objection, and any authority in support of the instruction. Each requested jury instruction shall be numbered and set forth in full on a separate page, citing the authority or source of the requested instruction.

3. Jury instructions should be modified as necessary to fit the facts of the case (e.g., inserting names of defendant(s) or witness(es) to whom instruction applies). Where language appears in brackets in the model instruction, counsel shall select the appropriate text and eliminate the inapplicable bracketed text.

4. An index page shall accompany all jury instructions submitted to the Court. The index page shall indicate the following:

- a. The number of the instruction;
- b. A brief title of the instruction;
- c. The source of the instruction; and
- d. The page number of the instruction.

EXAMPLE:

Number	Title	Source	Page Number
#1	Conspiracy-Elements	9th Cir. 8.5.1	1

5. One or more copies of the instructions will be given to the jury during deliberations. Accordingly, counsel must submit to the Chambers e-mail a “clean” set of all instructions in Word or WordPerfect format, containing only the text of each instruction, set forth in full on each page, with the caption “Instruction

1 No. ____” (eliminating titles, supporting authority, indication of party proposing,
2 etc.). A paper Chambers copy must also be submitted.

3 6. Counsel shall submit a proposed verdict form with the jury
4 instructions.

5 7. At least by Wednesday before trial, each counsel must file any
6 proposed questions to be asked of prospective jurors.

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8 E. INSTRUCTIONS GOVERNING PROCEDURE DURING TRIAL
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10 1. Counsel shall not refer to any witness -- including a client -- over 14
11 years of age by his/her first name during trial.

12 2. Counsel shall not discuss the law or argue the case in opening
13 statements.

14 3. Counsel shall not use objections for the purpose of making a speech,
15 repeating testimony, or attempting to guide the witness. When objecting, counsel
16 shall stand, state only the legal ground of the objection, e.g., hearsay, irrelevant,
17 etc. Counsel shall not argue an objection before the jury. Requests to approach
18 sidebar to further argue an objection should be made sparingly, and may not be
19 granted.

20 4. Counsel shall not make facial expressions, nod, or shake their heads,
21 comment, or otherwise exhibit in any way any agreement, disagreement, or other
22 opinion or belief concerning the testimony of a witness. Counsel shall admonish
23 their clients and witnesses not to engage in such conduct.

24 5. Counsel should not talk to jurors at all, and should not talk to co-
25 counsel, opposing counsel, witnesses, or clients where the conversation can be
26 overheard by jurors. Each counsel should admonish counsel’s own clients and
27 witnesses to avoid such conduct.

28 6. Counsel shall question witnesses from the lectern. Counsel shall not

1 approach the witness box or enter the well without the Court's permission, and
2 shall return to the lectern when counsel's purpose has been accomplished.

3 7. Counsel should speak clearly when questioning witnesses, making
4 objections, etc.

5 8. No document shall be placed before a witness unless a copy has been
6 provided to the Court and opposing counsel. Counsel may consider such devices
7 as overhead projectors, jury notebooks for admitted exhibits, or enlargements of
8 important exhibits. The Court has an Elmo and other equipment available for use
9 during trial. Counsel may call the CRD if they wish to visit when the Court is not
10 in session to practice using the equipment. The Court does not permit exhibits to
11 be "published" by passing them up and down the jury box. Exhibits may be
12 displayed briefly using the screen in the courtroom, unless the process becomes
13 too time-consuming.

14 9. Water is permitted in the courtroom. Food is not permitted in the
15 courtroom.

16 10. Counsel shall rise when addressing the Court. In jury trials, counsel
17 and the defendant shall rise when the jury enters or leaves the courtroom. Special
18 procedures or exceptions may apply when the defendant is in custody or
19 restrained.

20 11. In trial, all remarks shall be addressed to the Court. Counsel shall not
21 directly address the CRD, the court reporter, or opposing counsel. All requests for
22 re-reading of questions or answers, or to have an exhibit placed in front of a
23 witness, shall be addressed to the Court.

24 12. Counsel should not offer a stipulation without having conferred with
25 opposing counsel and having reached an agreement. Any stipulation of fact will
26 require defendant's personal concurrence and shall be submitted to the Court in
27 writing for approval. A proposed stipulation should be explained to defendant in
28 advance.

1 13. While court is in session, counsel shall not leave counsel table to
2 confer with investigators, paralegals, secretaries, witnesses, etc. unless permission
3 is granted in advance.

4 14. When a party has more than one lawyer, only one lawyer may
5 conduct the examination of a given witness, and only that same lawyer may
6 handle objections during the testimony of that witness.

7 15. If a witness was on the stand at a recess or adjournment, counsel who
8 called the witness shall ensure the witness is back on the stand and ready to
9 proceed when trial resumes.

10 16. Counsel are directed to have witnesses available throughout the court
11 day. If no witnesses are available and there is more than a brief delay, the Court
12 may deem counsel to have rested.

13 17. The Court attempts to cooperate with expert witnesses and other
14 professionals, and will, except in extraordinary circumstances, accommodate them
15 by permitting them to be called out of sequence. Counsel are urged to anticipate
16 any such possibility and to discuss it with opposing counsel. If there is an
17 objection, counsel shall confer with the Court in advance.

18 18. Counsel must notify the CRD in advance if any witness should be
19 accommodated based on the Americans with Disabilities Act or for other reasons.

20 19. Each counsel should keep counsel's own list of exhibits and should
21 note when each has been admitted into evidence.

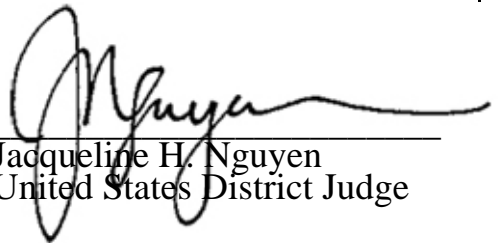
22 20. Each counsel is responsible for any exhibits that counsel secures from
23 the CRD and must return them before leaving the courtroom at the end of the
24 session.

25 21. An exhibit not previously marked should, at the time of its first
26 mention, be accompanied by a request that the CRD mark it for identification. To
27 save time, counsel must show a new exhibit to opposing counsel before it is
28 mentioned in Court.

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IT IS SO ORDERED.

DATED: January 21, 2010



Jacqueline H. Nguyen
United States District Judge

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)	Case No.	-JHN-x
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)		
Plaintiff(s),)		
)		
vs.)		
)	WITNESS LIST	
)		
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)		
Defendant(s).)		
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)		

WITNESSES FOR PLAINTIFF	DATES OF TESTIMONY
	(to be filled in during trial)
WITNESSES FOR DEFENDANT	

FINAL JOINT TRIAL WITNESS ESTIMATE FORM

CASE: _____

TRIAL DATE: _____

	WITNESS NAME	PARTY CALLING WITNESS AND ESTIMATE	X-EXAMINER'S ESTIMATE	DESCRIPTION OF TESTIMONY	COMMENTS
1					
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7					
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9					
10					
	TOTAL ESTIMATES THIS PAGE:				

Instructions:

(1) List witnesses (last name first); (2) For description, be extremely brief, e.g., "eyewitness to accident" or "expert on standard of care;" (3) Use estimates within fractions of an hour, rounded off to closest quarter of an hour, e.g., if you estimate 20 minutes, make it .25. An estimate of one and one-half hours would be 1.5. An estimate of three-quarters of an hour would be .75; (4) Note special factors in "Comments" column, e.g., "Needs interpreter;" (5) Entries may be in handwriting if very neat and legible.